IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6257 of 2001

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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NIRMAL D. SOHAL HOUSE NO. 22

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 6257 of 2001

MR RAMNANDAN SINGH for Petitioners No. 1-36

MS KATHA GAJJAR, AGP for Respondents No. 1-3

MR NK MAJMUDAR for Respondents No. 4-5

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 08/02/2002

ORAL JUDGEMENT

#. Heard the learned advocates.

#. The petitioners, the residents of one Prabhupark Society situated at Old Chhani Road, Vadodara have preferred this petition against the order dated 5th May, 2001 made by the State Government (Joint Secretary (Appeals), Education Department). Earlier under order dated 15th March, 2001 the Primary Education Officer, Vadodara had cancelled the recognition granted to the respondent no.5 School, run and managed by the respondent no.4 Trust. It is the grievance of the petitioners that the respondent no.5 School is run in a residential locality causing nuisance to the residents of the said locality. Under the impugned order dated 5th May, 2001, the respondent no.4 Trust was directed to complete the school building on the land allotted to it within six months therefrom. It would not be out of place to mention here that even after the expiry of the said six months the respondent no.4 Trust has not yet commenced the construction of the building. It may also be noted that the said order of 15th March, 2001 though was challenged before the State Government, the same was challenged before this Court also in Special Civil Application No.2148/2001. The said Special Civil Application No.2148/2001 was allowed by this Court (Coram: P.K.Sarkar, J.) on 2nd May, 2001. The Court was pleased to set aside the impugned order of 15th March, 2001 and remand the matter to the Director of Primary Education for hearing and decision afresh. Pending this petition, under order dated 21st September, 2001, I had directed the Director of Primary Education to decide the matter in accordance with the above referred order dated 2nd May, 2001 made by this Court, without being influenced by the order dated 5th May, 2001 made by the State Government.

#. Pursuant to the said direction, order has been made by the Director of Primary Education on 26th September, 2001. Under the said order the respondents nos.4 and 5 were directed to shift the school from the residential premises, within six months as directed by the State Government under order dated 5th September, 2001. Under further order dated 17th October, 2001 made by me, the respondents nos.4 and 5 were directed to comply with the said order dated 26th September, 2001 and were restrained from allowing any vehicle carrying its students to enter within 100 feet from any of the bungalows of the aforesaid Prabhupark Society.

#. It appears that the respondents nos.4 and 5 have not commenced the construction of the school building on the plot allotted to them and have instead moved the authority below for further extension of time. The said

application has not been considered in view of the above referred orders made by this Court.

#. Mr.Singh appearing for the petitioners has submitted that the petitioners shall not object against the running of the respondent no.5 School in the present premises, if the respondents nos.4 and 5 undertake to close the school in the said premises at the end of the present academic year and to abide by the order dated 17th October, 2001 till then. The respondents nos.4 and 5 also have moved Misc.Civil Application No.1968/2001 seeking modification of the aforesaid order dated 17th October, 2001. The Managing Trustee of the respondent no.4 Trust, one Harish Bishandas Virk has also filed an affidavit. He has stated that if the respondent no.5 School is permitted to run upto 31st May, 2002, he shall not pray for further extension and would not run the school at the said premises.

#. In above view of the matter, the petition is allowed. The respondents nos.4 and 5 are directed to close the respondent no.5 School in the premises of the Prabhupark Society at the end of the academic year 2001-2002. In no circumstances, the respondent no.5 School shall be run in the said premises on and after 1st June, 2002. So long as the respondent no.5 School sits in the said premises of the Prabhupark Society they shall be governed by the interim direction issued on 17th October, 2001. Rule is made absolute to the above extent. There shall be no order as to cost.

( Ms. R.M.Doshit, J. )

/sakkaf